

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SWISSDIGITAL USA CO., LTD.,

Plaintiff,

v.

20-CV-870-LJV
DECISION & ORDER

AVON LIFESTYLE PVT. LTD., *et al.*,

Defendants.

The plaintiff, Swissdigital USA Co., Ltd. (“Swissdigital”), moves for a default judgment against the defendants, Avon Lifestyle Pvt. Ltd. and Naina Parekh. Docket Item 11; see Docket Item 12. More specifically, Swissdigital seeks a default judgment on two claims asserted in its complaint: (1) its patent infringement claim, Docket Item 1 at ¶¶ 27-45; and (2) its request for a declaratory judgment that it did not infringe a different patent held by the defendants, *id.* at ¶¶ 46-48.¹

For the reasons that follow, Swissdigital’s motion for a default judgment is denied without prejudice.

LEGAL PRINCIPLES

Federal Rule of Civil Procedure 55 “provides a two-step process for obtaining a default judgment.” *New York v. Green*, 420 F.3d 99, 104 (2d Cir. 2005). First, the plaintiff must secure a clerk’s entry of default by demonstrating that the opposing party

¹ The complaint asserts a third claim seeking a declaratory judgment that the defendants’ patent is invalid, Docket Item 1 at ¶¶ 49-51, but Swissdigital does not move for a default judgment on that claim, *see* Docket Item 12 at 5 n.1.

“has failed to plead or otherwise defend” the action. Fed. R. Civ. P. 55(a). Second, the plaintiff must “seek a judgment by default under Rule 55(b).” *Green*, 420 F.3d at 104.

A plaintiff seeking a default judgment “bears the burden of demonstrating that the unchallenged allegations and all reasonable inferences drawn from the evidence provided establish the defendant’s liability on each asserted cause of action.” *LG Cap. Funding, LLC v. Accelera Innovations, Inc.*, 2018 WL 5456670, at *4 (E.D.N.Y. Aug. 13, 2018). “Ultimately, the decision whether to enter [a] default judgment is committed to the district court’s discretion.” *Deep Foods Inc. v. Deep Foods Inc.*, 419 F. Supp. 3d 569, 577 (W.D.N.Y. 2019) (alterations and internal quotation marks omitted) (quoting *Greathouse v. JHS Sec. Inc.*, 784 F.3d 105, 116 (2d Cir. 2015)). But “in light of the [Second Circuit’s] ‘oft-stated preference for resolving disputes on the merits,’ default judgments are ‘generally disfavored.’” *Brydge Techs. LLC v. OGadget LLC*, 2021 WL 1200316, at *3 (E.D.N.Y. Mar. 4, 2021) (quoting *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 95-96 (2d Cir. 1993)).

DISCUSSION²

I. INFRINGEMENT CLAIM

Swissdigital asserts a patent infringement claim in connection with two bags sold under the defendants’ “EUME” brand (the “EUME bags”). Docket Item 1 at ¶¶ 27-45. Swissdigital alleges that the EUME bags infringe U.S. Patent No. 10,574,071 (“the ‘071 patent”), which is held by Swissdigital and titled “Bag or luggage with USB charging

² The Court assumes the reader’s familiarity with the facts alleged in the complaint, Docket Item 1.

connector.” *Id.*; see *id.* at ¶¶ 1, 5. More specifically, it alleges that the EUME bags infringe the ‘071 patent because they “incorporate an integrated USB socket and include a place for placing a power storage device inside the bag and a power cable outlet on the outer surface of the bag.” *Id.* at ¶ 28.

According to Swissdigital, “Exhibit A” to the complaint is a copy of the ‘071 patent. See *id.* at ¶ 1. But the document titled “Exhibit A” is a patent for a “Load-Reducing Massage Backpack” and does not mention “USB charging” or anything else relevant to the defendants’ alleged infringing actions. See Docket Item 1-1. The Court therefore cannot evaluate Swissdigital’s allegations about the content of the ‘071 patent and whether the EUME bags infringe that patent. See Docket Item 1 at ¶¶ 29-35 (alleging that the EUME bags meet specific “claim element[s]” enumerated in the ‘071 patent).

In other words, because Swissdigital apparently has attached the incorrect patent to its complaint, it has failed to show that it is entitled to a default judgment on its patent infringement claim. Swissdigital’s motion for a default judgment as to the first count of its complaint therefore is denied.

II. NON-INFRINGEMENT CLAIM

Swissdigital also seeks a declaratory judgment that it has not infringed a patent held by the defendants, U.S. Patent No. 10,561,225 (“the ‘225 patent”). *Id.* at ¶¶ 46-48.

The ‘225 patent is for an “adaptable backpack” with “detachable massaging units” that can be “adjusted” based on “the user’s height or desire.” Docket Item 1-2 at 10, 14-15 (capitalization omitted). In its memorandum of law in support of its motion for a default judgment, Swissdigital asserts that it has not infringed that patent because it

“does not and has not sold [sic] or offered to sell any products that include ‘a detachable massaging unit’ as required by the independent claims of the ‘225 [p]atent.” Docket Item 12 at 13.

To support that assertion, Swissdigital describes the “six backpacks with massage functionality” that it sells and explains that “[n]one of the massage units included in these backpacks are detachable.” *Id.* at 15-19. But none of that is pleaded in the complaint, so none of it is properly before this Court on Swissdigital’s motion for a default judgment.³ See Docket Item 1.

Moreover, the complaint says only that “Swissdigital’s backpacks that include massage functionality do not infringe any claim of the ‘225 [p]atent, either directly or indirectly, and either literally or under the doctrine of equivalents.” *Id.* at ¶¶ 46-48. But that conclusory allegation is insufficient to show that Swissdigital’s massage backpacks do not infringe the ‘225 patent, and Swissdigital therefore is not entitled to a default judgment on its non-infringement claim.

Swissdigital’s motion for default judgment as to the second count of its complaint therefore is denied as well.

³ “[C]ourts in this Circuit have disagreed on the permissibility of looking to evidence outside the complaint in adjudicating a motion for default judgment.” *Hunter v. Shanghai Huangzhou Elec. Appliance Mfg. Co.*, 505 F. Supp. 3d 137, 150 n.6 (N.D.N.Y. 2020) (collecting cases). But in light of the Second Circuit’s preference for resolving disputes on the merits, see *LG Cap.*, 2018 WL 5456670, at *4, this Court declines to consider evidence outside either the four corners of the complaint or documents properly incorporated by or attached to the complaint.

CONCLUSION

For the reasons stated above, Swissdigital's motion for a default judgment, Docket Item 11, is DENIED without prejudice. Swissdigital may amend its complaint and move for a default judgment a second time **within 45 days of the date of this order. Within 14 days of the date of this order**, Swissdigital shall serve a copy of this order on the defendants and file a certificate of service.

SO ORDERED.

Dated: August 1, 2024
Buffalo, New York

/s/ Lawrence J. Vilardo

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE